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Honorable Thomas A. Snowden, Jr.
Judge of Probate
Shelby County
P. O. Box 825
Columbiana, AL 35051

Probate Judges - Mental Health -
Commitment - State Funds

Section 22-52-14, Code, provides
for payment of costs of
hospitalization and evaluation by
the State of Alabama under
certain circumstances.

Dear Judge Snowden:

You have requested of this office an opinion respecting the following question: Where there is no facility of the Alabama Mental Health Department available, and the court determines that the safest, least restrictive facility is a local hospital willing to accept indigent persons sought to be involuntarily committed for evaluation, would the costs of such hospitalization and the attendant evaluation be payable by the State of Alabama pursuant to § 22-52-14, Code of Alabama 1975?

Section 22-52-14 provides that when the person sought to be committed is indigent, and the petition is granted, there is payable out of the state general fund the following:

1. The fees of the attorney appointed to act as the applicant for the petition;
2. The fees of the attorney or guardian ad litem appointed for the respondent;
3. The fees of any expert employed to offer testimony;

4. "...all other costs allowable by law..."

Your question is, then, are the costs of hospitalization and evaluation in a private hospital, when there is no facility of the Alabama Mental Health Department available, within the purview "of all other costs allowable by law"?

Section 22-52-17, Code, supra, provides that:

"... No public facility other than the department of mental health and mental retardation may be required (as distinguished from authorized) by the probate court to perform any mental evaluation of a person sought to be committed... except:

(1) In an emergency case wherein no other source or agency which is funded or mandated by federal law, state law or both to provide such services is objectively capable of performing such evaluation within the time limit imposed by law; or

(2) In an emergency case wherein no other source or agency operates to perform such evaluation in such emergency case, a public hospital may be required to accept a person sought to be committed for the provision of hospital care if such person is admitted to the public hospital or other facility by a medical doctor who has agreed to provide professional services, including evaluation of the patient, prior to admission to the public hospital or other facility."

The statute goes on to say that "... public facilities may be utilized only with and upon their concurrence and upon written certification of the Department of Mental Health and Mental Retardation that no facility of the Mental Health and Mental Retardation Department is available or capable of performing said mental evaluation."

We observe that under the authority of the Department of Mental Health, found in § 22-50-11, Code, supra, that Department is authorized to set up state plans for the purpose of controlling and treating any and all forms of mental and

emotional illness, and is authorized to enter into contracts with any other state or federal agency or with any private person, organization or group capable of contracting if it finds such action to be in the public interest. In the event there is no facility funded by the state through such an agreement, or in an emergency case where there is no agency that can perform the emergency evaluation, a public hospital may, pursuant to § 22-52-17, Code, supra, be required to accept a person sought to be committed, but only upon their concurrence and upon written certification by the Department that no facility of the Department is available or capable of performing the evaluation.

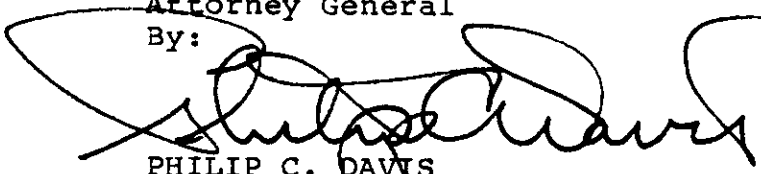
It further appears in the provisions of §§ 22-52-7(c), 22-52-8(c) and 22-52-11, Code, supra, the Court has the authority to order admittance to a hospital under certain circumstances. Accordingly, it is the opinion of this office that the expenses of an admission and evaluation can be within the purview of "all other costs allowable by law". These circumstances are (1) in an emergency case where no source or agency funded by federal or state law or both is objectively capable of performing the necessary evaluation or where no such source or agency operates to perform such evaluation in such an emergency case; (2) a medical doctor has agreed to provide professional services, including evaluation, prior to admission; (3) the Department of Mental Health and Mental Retardation has certified in writing that no facility of the Department is available or capable of performing the necessary evaluation; (4) the hospital in question is willing to accept the person sought to be committed.

I trust that the foregoing answers your questions. If this office can be of further help to you, please let us know.

Yours very truly,

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By:



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